

### REMARKS

Favorable reconsideration of this Application as presently amended and in light of the following discussion is respectfully requested.

After entry of the foregoing Amendment, Claims 1-20 are pending in the present Application. Claims 10, 19 and 20 have been amended to address cosmetic matters of form. Claims 1, 10, 19 and 20 are amended to further specify features of Figures 2 and 6. Since all of the elements of the amended claims were either earlier presented or inherent to the claims as examined, Applicants respectfully submit that the amendment does not require further search and/or consideration. No new matter has been added.

By way of summary, the Official Action presented the following issue: Claims 1-20 stand rejected under 35 U.S.C. § 103 as being unpatentable over Downs et al. (U.S. Patent No. 6,226,618, hereinafter Downs) in further view of Okabe et al. (U.S. Patent No. 6,889,208, hereinafter "Okabe").

Applicants thank the Examiner for the courtesy of the Interview extended to the Applicants representative on August 21, 2007. During the interview, Applicants representative explained that the "portable recording medium" as claimed was directed to a portable memory such as an optical disk or jump drive device. As the Examiner indicated that "portable recording medium" was being interpreted to encompass portable recording players, Applicants agreed to amend the claims to clarify that the current claims are directed to a memory only. However, no agreement was reached pending a response as filed. Comments presented during the interview are reiterated below.

REJECTION UNDER 35 U.S.C. § 103

The outstanding Office Action has rejected Claims 1-20 under 35 U.S.C. § 103 as being unpatentable over Down in further view of Okabe. The Office Action contends that Down discloses all of the Applicants' claimed features with the exception of authenticating a license management capability of a recording medium loaded to a vending apparatus... However, the outstanding Office Action cites Okabe as describing this more detailed aspect of the Applicants' claim advancement and states that it would have been obvious to one skilled in the art at the time the advancement was made to combine the recited references for arriving at the Applicants' claims. Applicants respectfully traverse the rejection.

Amended Claim 1 recites, *inter alia*, an information vending apparatus including:

... usage condition generating means for generating usage conditions in response to a purchase selection of the information for sale;

... authentication means **for authenticating a portable recording medium** directly or indirectly loaded on said information vending apparatus to determine **if the portable recording medium** is capable of supporting a license management capability **for reproducing the purchase selection in accordance with the usage conditions** prior to writing a purchase selection thereto; and,

writing means for writing said purchase selection along with said usage conditions for said license management capability and said cryptographic key to said portable recording medium upon authentication;

wherein said portable recording medium is a **memory** device configured to be **loaded** to a player device for reproduction of the information for sale.

Downs describes a digital content distribution platform (100). The platform enables content providers (101) to distribute content to customers via a transmission infrastructure (107) and hosting cite (111) (*See* Fig. 1D).<sup>1</sup> Specifically, content is packaged to form secure containers (SC) for delivery. For example, as outlined Downs at Steps 142-148 of column

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<sup>1</sup> Downs at column 8, line 55 through column 9, line 3.

19, a user purchasing a secure container initiates a series of communications to decrypt the secure container by accessing encryption keys of a clearing house (105) for obtaining a symmetric key for decrypting content. As such Downs describes creating a secure container including content and distributing the secure container to end-users via a network. The distribution of content of the license of the content to the end-user is operated separately.

As noted in the Official Action Downs does not disclose or suggest Applicants' authentication features.<sup>2</sup>

Okabe describes a system and associated method of distributing digital content. As shown in Figure 1, the system includes a terminal apparatus (5) which is located in a store, such as a kiosk terminal. The terminal (5) may receive content via a satellite (4) or through a wire-telephone communication such as provided by a management center (MC). The terminal apparatus (5) operates in accordance with a control program stored in memory thereof.<sup>3</sup> A customer player (6a, 6b) may be connected to the terminal (5) for obtaining content therefrom. This exchange of content includes functionality provided by the control program of a terminal apparatus (5). The control program negotiates an ID transfer between the players (6a, 6b) for authenticating the players. Upon authentication, content is transferred to the players.<sup>4</sup>

Conversely, in an exemplary embodiment of the Applicants' claimed advancement, content is selected from a list of available content by a user via a vending apparatus. Upon selection of content for purchase, usage conditions are generated along with an encryption key for decrypting the encrypted, selected content. Upon authentication that a portable recording medium loaded to the vending apparatus is capable of supporting a license management capability **for reproducing the purchase selection in accordance with the**

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<sup>2</sup> See Official Action of June 19, 2006 at page 3.

<sup>3</sup> See Okabe at Figure 1; column 6, lines 34-45.

<sup>4</sup> See Okabe at column 7, lines 13-23.

**usage conditions**, the purchase selection, along with the cryptographic key, is recorded to the recording medium. In this way, the consumer can store the selected content from the vending apparatus by providing **a recording medium** compatible with a predetermined Digital Rights Management (DRM) format to the vending apparatus.<sup>5</sup> The portable recording medium is a memory configured to be loaded to a player device for reproduction of the information for sale.

Applicants note that the description of Okabe has to do with authentication of a **player**. There is absolutely no description or discussion in Okabe of making any determination with respect to **a memory which is configured to be loaded to a player device for reproduction**.

Accordingly, Applicants respectfully request that the rejection of Claims 1-20 under 35 U.S.C. § 103 be withdrawn.

Consequently, in view of the foregoing remarks, it is respectfully submitted that the present application, including Claims 1-20, is patentably distinguished over the prior art, in condition for allowance, and such action is respectfully requested at an early date.

Respectfully submitted,


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<sup>5</sup> Application at Figs. 3 and 6, and associated description in the specification.